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November 29, 1993

The Honorable Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N. W.
Washington, D.C. 20554

Re: Limitations on Commercial Time on Television Broadcast Stations, MM Docket
No. 93-254

Dear Ms. Searcy:

I am writing to oppose the suggestion in the Commission's Notice of Inquiry that time limitations be reimposed on the amount of commercial matter broadcast by television stations.

American Telecast Corporation and its many sister companies has been primarily engaged in the business of selling its products direct to consumers via television commercials since its inception in 1975, and has been primarily been using the infommercial format for presenting its sales message to TV viewers since 1988. Since 1988 our companies have spent in excess of \$240,000,000 on the purchase of television time to air our infommercials in this country which makes us one of the largest, if not the largest, user of infommercials in this country.

Prior to our use of the infommercial format in 1988 our primary method of presenting our sales message to our consumers was through the use of television commercials of shorter duration varying in length from 30 seconds to 2 minute commercials. Clearly the infommercial format enables us to provide a far greater service to our customers in this television sales process.

Consider within the time restraints of these shorter length commercials we had to restrict the types of products to consider for sale to those very simple products which were easily demonstrable and where the potential customer would not have many questions about the product in arriving at the purchase decision. There simply was not enough time to do more in the commercial.

With infommercials where we have a half hour to present our sales message we are now able to offer much more sophisticated products where in the 30 minutes we have the time to explain how the product works, what makes it unique in comparison to other products which may currently be available in the market place, and to try to address questions we believe the consumer may have before making their purchase

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decisions.

Using the infommercial format we have thus been able to successfully create new companies which sell such diverse product lines as a complete weight loss / exercise program with our Deal A Meal Corporation featuring Richard Simmons; a series of video / audio tapes to help kids get better grades with our Chesterbrook Educational Publishers, Inc. featuring first John Ritter, then Michael Landon, and then Burt Reynolds; a new line of cosmetics in our Victoria Jackson Cosmetics, Inc. featuring Ali MacGraw, Lisa Hartman and Merridith Baxter Birney; a new line of hair care products in our Lori Davis Hair, Inc. featuring Cher; a new complete golf instructional video product line in our Wally Armstrong Golf, Inc. featuring Pat Summerall and Kenny Rogers; a series of video tapes on seminars on how to improve marriage relationships in our Gary Smalley Seminars, Inc. featuring John Tesh and Connie Sellecca; a new series of Beatrix Potter tapes in our Stillmeadow Video Concepts, Inc featuring Angela Lansbury; and an about to be introduced new exercise treadmill in our Westgate Fitness, Inc. featuring Jane Fonda.

I would observe that we would not have been able to provide our millions of consumers with any of these new product lines had we been unable to use the infommercial format for generating our sales. There is simply not enough time in the 2 minute commercial to explain the benefits of these more sophisticated products and to attempt to address the questions the consumers would have about these products before they would be willing to make the purchase decisions.

Hence, if the FCC were to reimpose the limitations on the commercial time on television broadcast stations that previously existed which would prohibit our use of infommercials these companies which now exist, and all new ones we may be able to create to sell the more sophisticated product lines, would be effectively put out of business. Obviously such an action would damage our shareholders and would cause unemployment to the literally thousands of people who now have their jobs because of these sales activities. From an even bigger perspective such an action would deprive the Amercian public of using this convenient method of making informed purchase desisions in buying these more sophisticated products.

There is no justification for the FCC reimposing a commercial time limitation where the primary loser would be the Amercian consumer. It is our belief the FCC's 1984 decision was based upon the belief that there would be an expansion in the number of information sources available to the viewers and that, in such a competitive marketplace, viewers would determine the appropriate amount of commercial programming by their choice of what to watch. Further, the FCC believed that the market would respond to the relaxation of constraints on commercial programming by developing new commercial offerings.

Clearly, both these predictions have proved to be true. The number of video channels available to consumers has already expanded materially, and we are entering a new technological era that promises a much greater number of choices for the consumer.

At this late date, the government should not attempt to turn back the clock and reimpose a scheme of commercial time limits that made sense, if at all, only at a time when few video outlets were available.

I believe it also important to observe the workings of infomercials on the financial condition of TV stations. These TV stations typically had their largest viewing audience in the prime time slots and charged accordingly for this time. They also had time slots with much smaller viewing audiences primarily in the late night and week-end mornings which in many cases were loss leader times for the TV stations because there simply was an inadequate demand for the time. Through the removal of the commercial time that could be aired in these loss leader time slots, the TV stations were then able to convert what had been a loss leader segment of their inventory of time into a certain new profit center by the sale of that time to the infomercial advertiser.

We have been told that sales of TV time to the infomercial advertiser now constitutes approximately 13% of total revenues for all TV stations. Obviously, since much of this time now being sold to the infomercial advertiser at a certain profit is effectively replacing a former loss-leader use of that time, the impact on the bottom line would be far greater than this 13% number. Further note the smaller UHF stations have been the ones who have made the greatest use of the sale of the TV time to infomercial advertiser. It would therefore appear that if the FCC were to reimpose the former time limitations on the amount of commercial advertising, not only would it cause the unemployment of the large number of people whose job depend on such a sales process, but it would appear it could also create the question of the solvency of many of the now existing smaller TV stations.

It also seems worthy of note that since the FCC changed the rules in 1984 there has been much innovation in the whole infomercial industry. Clearly in the beginning there were several infomercial advertisers who essentially used deceptive product claims to sell over-priced shoddy products. Primarily as the result of the workings of the combined impact of the market place itself, the regulators, and the infomercial industry, the quality of the products and the advertising done by the infomercial marketer has greatly improved.

This is not to suggest we now have a perfect world. Clearly all in the business need to continue the quest for constant and never ending improvement. Equally clear is the fact that the infomercial format provides the consumer with a new way of making an informed purchase decision. The consistent and material growth in new sales suggests the American public likes the infomercial format as an option for making purchasing decisions.

I am no lawyer but as a businessman it would seem to me any suggestion that the FCC should impose time limits that would restrict the showing of infomercials raises sensitive First Amendment considerations. Especially in an era where the number of video channels available to consumers is increasing rapidly, there is no reason why

the FCC should impose a content based discrimination against the broadcast of entertaining and informative commercial matter, simply because it is presented in a program length format.

For these reasons, we believe as a general matter, that the Commission should not initiate a rulemaking to consider reimposing time limits on the broadcast of commercial matter. In particular, we believe that no showing has been made of any justification for imposing any limits on the running of program-length commercials by broadcast stations.

Sincerely,

A handwritten signature in cursive script that reads "W. Benjamin Weaver". The signature is written in dark ink and is positioned above the typed name.

W. Benjamin Weaver
Secretary and Treasurer
American Telecast Corporation